

1 BILL NO. S-82-08- 19

2 SPECIAL ORDINANCE NO. S-151-82

3 AN ORDINANCE approving Street Resolution No. 5924-82,
4 Caribe Colony Pavement Repair, a contract between the
5 City of Fort Wayne, Indiana and Gaines
6 Construction Co., Inc. in connection
7 with the Board of Public Works.

8 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
9 WAYNE, INDIANA:

10 SECTION 1. That a certain Contract dated June 23, 1982,
11 between the City of Fort Wayne, Indiana, by and through its Mayor
12 and the Board of Public Works and Gaines Construction Co., Inc.,
13 for:

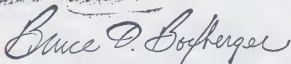
14 the reconstruction of five areas of pavement
15 and corner sidewalk replacement in Caribe
16 Colony Addition;

17 under Board of Public Works Resolution No. 5924-82, involving a
18 total cost of Twenty-Eight Thousand Three Hundred Seventy-Eight
19 and 25/100 Dollars (\$28,378.25) all as more particularly set forth
20 in said Resolution and Contract which are on file in the Office of
21 the Board of Public Works and are by reference incorporated
22 herein, made a part hereof and are hereby in all things ratified,
23 confirmed and approved.

24 SECTION 2. That this Ordinance shall be in full force
25 and effect from and after its passage and any and all necessary
26 approval by the Mayor.

27 
28 Councilmember

29 APPROVED AS TO FORM
30 AND LEGALITY

31 

32 Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Estier,
seconded by Stier, and duly adopted, read the second time
by title and referred to the Committee Public Works (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of
_____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: _____

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Stier,
seconded by Estier, and duly adopted, placed on its
passage. PASSED (~~lost~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BRADBURY</u>	<u>X</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>X</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>X</u>	_____	_____	_____	_____
<u>GRUGGS</u>	<u>X</u>	_____	_____	_____	_____
<u>MUCKLOS</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: _____

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL)

(APPROPRIATION) ORDINANCE (~~RESOLUTION~~) NO. _____

on the 14th day of September, 1982

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 15th day of September, 1982, at the hour of
11:30 o'clock PM M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 22nd day of September
1982, at the hour of 4 o'clock P M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

*Refer App.
\$28,000
low to city*

BILL NO. S-82-08-19

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN
ORDINANCE approving Street Resolution No. 5924-82, Caribe Colony
Pavement Repair, a contract between the City of Fort Wayne, Indiana
and Gaines Construction Co., Inc. in connection with the Board
Of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

JAMES S. STIER, CHAIRMAN

BEN A. EISBART, VICE CHAIRMAN

VICTURE L. SCRUGGS

MARK E. GIAQUINTA

DONALD J. SCHMIDT

Joe Stier
Ben A. Eisbart
Victoria L. Scruggs
Mark E. Giaquinta
Donald J. Schmidt

9-14-82

CONCURRED IN

DATE CHARLES W. WESTERMAN, CITY CLERK

CITY PAID
SUBJECT TO COUNCILMANIC APPROVAL
PRELIMINARY MEETING 7-27-82
RATIFICATION 8-10-82

CONTRACT

This Agreement, made and entered into this _____ day of _____, 19____

by and between _____ GAINES CONSTRUCTION COMPANY, INC. _____

_____ 217 W. WASHINGTON CENTER RD., FORT WAYNE, INDIANA 46825 _____

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve

by reconstruction of five areas of pavement and corner sidewalk replacement in Caribe Colony Addition.

by grading and paving the roadway to a width of XX feet with XX

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5924-82 attached hereto and by reference made a part hereof.

At the following prices:

Concrete Pavement Removal	Three dollars and fifty cents per square yard	3.50
Concrete Sidewalk Removal	Two dollars and no cents per square yard	2.00
#73 Stone (2")	Nine dollars and no cents per ton	9.00
6" Concrete Pavement	Eighteen dollars and no cents per square yard	18.00
6" Wingwalk	One dollar and seventy cents per square foot	1.70
Joint & Crack Sealer	Three hundred dollars and no cents per ton	300.00
Sod	Two dollars and ninety-five cents per square yard	2.95
Dirt Backfill	Four dollars and no cents per ton	4.00
15" Concrete Pipe, Class IV	Seven dollars and no cents per lineal foot	7.00

Standard Inlet

Three hundred dollars and no
cents per each

300.00

Total

Twenty-eight thousand, three
hundred and seventy-eight dollars
and twenty-five cents

\$28,378.25

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

WITNESSED:

Michael H. Moore

BY: *Thomas J. Moore*

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5924-82 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally and in all respects completed on or before June 30, 1982, and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said date _____, 19____ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties herunto set our hands this _____

day of June 23, 1982.

ATTEST:

Michael A. Gairs
Corporate Secretary

GAINES CONSTRUCTION COMPANY, INC.

BY: Henry Gains

ITS: Rosen

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

Robert Anderson
Barry R. Collins
Its Board of Public Works and Mayor.

ATTEST:

Sandra Hamedy
Secretary and Clerk

Rafael J. J...
ASSOCIATE CITY ATTORNEY

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

GAINES CONSTRUCTION COMPANY, INC.

(Contractor)

BY: Henry Gaines
Henry Gaines

ITS: President

ATTEST:

x Michael A. Gains
Secretary
(Title)

State Auto Mutual Insurance Company
Surety

*BY: Eileen Favory
Authorized Agent Eileen Favory
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

ATTACH POWER OF ATTORNEY

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- GAINES CONSTRUCTION COMPANY, INC. -----
(Name of Contractor)

----- 217 W. WASHINGTON CENTER RD., FORT WAYNE, INDIANA 46825 -----
(Address)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____
State Auto Mutual Insurance Company
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of TWENTY-EIGHT THOUSAND, THREE HUNDRED AND SEVENTY-EIGHT DOLLARS AND TWENTY-FIVE CENTS -----
for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 16 day of June, 19 82, for the construction of:

Improvement Resolution No. 5924-82:

To improve by reconstruction of five areas of pavement and corner sidewalk replacement, in Caribe Colony Addition.



at a cost of TWENTY-EIGHT THOUSAND, THREE HUNDRED AND SEVENTY-EIGHT DOLLARS AND TWENTY-FIVE CENTS -----
(\$28,378.25-----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 3 counter-
(number)
parts, each one of which shall be deemed an original, this 16 day of
June, ~~XXXX~~ 1982.

(SEAL)

ATTEST:

x Michael A. Gaines
(Principal) Secretary

Suzanne L. Heigl
Witness as to Principal
1666 Spy Run
(Address)
Ft. Wayne, IN

Suzanne L. Heigl
Witness as to Surety
1666 Spy Run Ave
(Address)
Ft. Wayne, IN

GAINES CONSTRUCTION COMPANY, INC.

Principal

BY Henry Gaines
Henry Gaines
President
(Title)

217 Washington Center Rd., Ft Wayne,

(Address)

State Auto Mutual Insurance Company

Surety

BY Elleen Favory
Attorney-in-Fact
(Authorized Agent)

1666 Spy Run Ave., Ft Wayne, IN

(Address)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

CERTIFIED COPY

STATE AUTOMOBILE MUTUAL INSURANCE COMPANY

COLUMBUS, OHIO

POWER OF ATTORNEY

Know All Men By These Presents, That STATE AUTOMOBILE MUTUAL INSURANCE COMPANY, a corporation, duly organized and existing under the laws of the State of Ohio, and having its principal offices in the City of Columbus, Ohio, does hereby by these presents make, constitute and appoint.....

Eileen Favory

of Ft. Wayne and State of Indiana its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds or undertakings described below, to wit:

any and all bonds, undertakings, or other written obligations in the nature thereof, subject to the limitation that the penalty of any one bond shall not exceed One Hundred Thousand Dollars (\$100,000.00) in amount

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the duly authorized officers of the Company, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. This Power of Attorney is made and executed pursuant to and by authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 8th day of May 1970:

BE IT RESOLVED, by the Board of Directors of State Automobile Mutual Insurance Company, that any two (2) of the following officers of the Company, viz: the President, any Vice President, any Assistant Vice President, Secretary, any Assistant Secretary, Treasurer, and any Assistant Treasurer, shall have the power and authority to appoint agents and attorneys-in-fact and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances, consents of surety or other written obligations in the nature thereof and any such bond, undertaking, recognizance, consent of surety or written obligation in the nature thereof shall be valid and binding upon the Company when duly executed and sealed, if a seal is required, by such attorney-in-fact or agent pursuant to and within the limits of the authority granted by his power of attorney.

BE IT FURTHER RESOLVED, that any two (2) said officers may remove any such Attorney-in-Fact or Agent and revoke the power and authority given to him.

BE IT FURTHER RESOLVED, that any two (2) of the following officers of the Company, viz: the President, any Vice President, any Assistant Vice President, Secretary, any Assistant Secretary, Treasurer and any Assistant Treasurer, shall have power and authority to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances, consents of surety or other written obligations in the nature thereof, which the business of the Company may require; and any such bond, undertaking, recognizance, consent of surety or written obligation in the nature thereof shall be valid and binding upon the Company when duly executed and sealed, if a seal is required.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of State Automobile Mutual Insurance Company at a meeting called and held on the 8th day of May, 1970:

BE IT RESOLVED, that the signature of the President, any Vice President, any Assistant Vice President, Secretary, any Assistant Secretary, Treasurer, and any Assistant Treasurer and the Company seal may be affixed by facsimile to any power of attorney or special power of attorney or certification of either given for the execution of any bond, undertaking, recognizance, consent of surety or other written obligation in the nature thereof; such signature and seal, when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

In Witness Whereof, the Company has caused these presents to be signed by its proper officers and its corporate seal to be hereunto affixed this 26th day of March, 1981.

STATE AUTOMOBILE MUTUAL INSURANCE COMPANY.



By Richard J. Ridgley - Vice President

Norman G. Moun - Vice President

STATE OF OHIO
COUNTY OF FRANKLIN, } ss:

On this 26th day of March, A.D. 19 81, before me personally came
Richard J. Ridgley and Norman G. Moun
to me known, who being
duly sworn, did depose and say that they are the Vice President and Vice President

respectively of STATE AUTOMOBILE MUTUAL INSURANCE COMPANY, the Company
described in and which executed the above instrument; that they know the seal of said Company; that the seal affixed
to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company
and that they signed their names, respectively, by like order.



Larry H. Dowd
Larry H. Dowd Notary Public.
My Commission expires 2/9/85

CERTIFICATE

I, the undersigned, Assistant Secretary of State Automobile Mutual Insurance Company, an Ohio Corporation, do
hereby certify that the foregoing power of attorney is in full force and has not been revoked; and furthermore, that The
Resolutions of the Board of Directors set forth in the power of attorney are now in force.

Signed and sealed at Columbus, Ohio, this 16th day of June, 19 82



Larry H. Dowd
Larry H. Dowd Assistant Secretary

TITLE OF ORDINANCE Street Resolution 5924-82, Caribe Colony Pavement Repair

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE Contract between the city of Fort Wayne, Indiana and
Gaines Construction Company, Inc. for the reconstruction of five areas of pavement
and corner sidewalk replacement in Caribe Colony Addition.

Prior approval received July 13, 1982

EFFECT OF PASSAGE repair work can be completed

EFFECT OF NON-PASSAGE improvement will not be done

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$28,378.25 100% city paid

ASSIGNED TO COMMITTEE

P.W.